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IN COUNTY CLERK'S OFFICE

AUG 20 2021

PIERCE COUNTY, WASHINGTON  
KEVIN STOCK, County Clerk  
BY KML DEPUTY

**IN THE SUPERIOR COURT OF WASHINGTON**  
**COUNTY OF PIERCE**

IN RE THE MATTER OF THE RESPONSE  
BY PIERCE COUNTY SUPERIOR COURT  
TO THE PUBLIC HEALTH EMERGENCY  
IN WASHINGTON STATE

Emergency Order: 20-19

**THIRD AMENDED**

PUBLIC HEALTH EMERGENCY ORDER  
REGARDING UNLAWFUL DETAINER  
ACTIONS AND THE EVICTION  
RESOLUTION PROGRAM (ERP)

*Effective August 16, 2021 through June 30, 2023*

This matter comes before the Court again on the COVID-19 public health emergency in Washington State.

Incorporated by reference are all Pierce County Superior Court Emergency Orders, Supreme Court Orders related to the public health emergency and court operations (specifically including Order No. 25700-B-639 authorizing the Eviction Resolution Program in Superior Courts, dated and filed on September 9, 2020), Washington State Department of Health orders, Pierce County Department of Health orders and

1 directives that may impact Court operations, as well as any relevant Proclamations by  
2 Governor Inslee.

3 **Findings.** It is recognized that:

- 4 A. Since late February 2020, the COVID-19 public health and economic crisis have  
5 combined to cause great health, social, and economic harm to the people of the  
6 state of Washington, rendering many thousands unable to meet basic living  
7 expenses, including but not limited to rent expenses.
- 8 B. Responding to the public health and economic emergency, on March 18, 2020,  
9 Governor Inslee issued Proclamation No. 20-19 imposing a moratorium on most  
10 residential evictions in Washington State. This Proclamation was renewed and the  
11 eviction moratorium was extended on multiple occasions. The most recent extension  
12 (Proclamation 20-19.6) expired June 30, 2021 pursuant to ch.115, Laws of 2021,  
13 sec. 4(1). Governor Inslee then issued his Bridge Proclamation 21-09 on June 29,  
14 2021.
- 15 C. Anticipating significant numbers of unlawful detainer filings upon the expiration of the  
16 Governor's eviction moratorium, in 2020 the Superior Court Judges' Association  
17 (SCJA) asked its Unlawful Detainer Work Group to develop a means of diverting  
18 nonpayment of rent cases away from the courts and into a collaborative resolution  
19 process that brings together landlords and their attorneys, tenants, legal aid and  
20 housing justice projects, administrators of state and local rent assistance programs,  
21 and trained eviction resolution specialists employed by community-based dispute  
22 resolution centers. SCJA Pilot Eviction Resolution Programs (ERPs) and related  
23 operating protocols were established in King, Snohomish, Pierce, Thurston, Clark,  
24 and Spokane Counties, and conciliation and/or mediation services commenced in  
25 November 2020.
- D. Current estimates indicate that more than 160,000 individual households are  
currently in rent arrears and face the prospect of potential eviction after the current  
bridge moratorium expires.
- E. On April 22, 2021, Governor Inslee signed Engrossed Second Substitute Senate  
Bill 5160 into law (ch.115, Laws of 2021) which took effect that day. This  
legislation substantially changes the law governing landlord-tenant relations,  
changes unlawful detainer practice and procedure, provides statewide



1 authorization and support for court-established Eviction Resolution Pilot  
2 Programs (ERPP) beyond the initial six pilot programs referenced in prior  
3 versions of this Emergency Order 19, and establishes a right to counsel for  
indigent tenants in unlawful detainer proceedings.

- 4 F. Court operations have been substantially curtailed since April 2020 due to the  
5 COVID-19 pandemic. Mandatory orders issued by the Washington Supreme Court  
6 and the need to comply with essential public health and safety protocols have  
7 caused this court to briefly suspend a range of operations, delay criminal and civil  
8 trials, and establish other procedures that have had profound impact on this court's  
9 ability to provide timely consideration and render judgments in cases in virtually all  
10 dockets. This has resulted in a continuing substantial backlog of civil, criminal,  
11 juvenile, and child welfare matters. The COVID-19 challenges have been  
12 compounded by the anticipated new demands on this court resulting from *State v.*  
13 *Blake*, 197 Wash.2d 170, 481 P.3d 521 (2021).
- 14 G. Given the substantial hearing and trial backlog this court is facing, the anticipated  
15 surge of unlawful detainer filings following expiration of the Bridge Proclamation  
16 presents a continuing threat to the ability of this court to timely hear and fairly decide  
17 such cases consistent with statutory deadlines, due process, and mandated  
18 procedures.
- 19 H. State and local rent-assistance programs offer the opportunity for immediate  
20 assistance in addressing rent arrearages (or portions thereof) and avoiding the need  
21 to seek recourse through the unlawful detainer process. It is in this court's interest in  
22 managing its docket, facilitating just outcomes, and wisely utilizing scarce judicial  
23 resources to divert cases away from the contested unlawful detainer process where  
24 there is a reasonable likelihood of a just resolution.
- 25 I. Sec. 7(2) of ch. 115, Laws of 2021, requires that, where an ERPP is established  
under authority of a standing judicial order landlords must use that program before  
filing an unlawful detainer action. Section 7(3) requires that the landlord provide an  
ERPP-approved notice to the tenant of the eviction resolution program prior to filing  
an unlawful detainer action. The Court adopts and requires the Landlord to use the  
form Notice developed by AOC in collaboration with the Office of the Attorney  
General. See attached *Exhibit A*.
- J. Governor Inslee issued the Bridge Proclamation 21-09 on June 29, 2021, which is  
effective from July 1 – September 30, 2021. The Bridge Proclamation is not an

1 extension of the Governor's Eviction Moratorium Proclamation (20-19). All evictions  
2 typically allowed under the law, with the exception of non-payment of rent, may  
3 resume July 1<sup>st</sup>.

4 K. As required by the Bridge Proclamation: (1) Local rental assistance programs have  
5 submitted attestations to the appropriate entity/entities and are operational in this  
6 county and (2) DRC will submit an attestation to the appropriate entity/entities that  
7 ERPP is operational in this county. These attestations shall be posted on the Court's  
8 website.

9 L. The attached Exhibit A suffices as the Notice required by the Bridge Proclamation  
10 that the landlord must give to the tenant providing an opportunity to participate in an  
11 operational rental assistance program and an operational ERPP.

12 M. It is understood that pending certification of the right-to-counsel program's  
13 availability, the local Dispute Resolution Center (DRC) known as Pierce County  
14 Center for Dialog and Resolution and the local Housing Justice Project (HJP) are  
15 prepared to assist tenants facing the threat of eviction and help tenants resolve that  
16 threat through non-judicial processes including the Eviction Resolution Pilot Program  
17 (ERPP).

18 N. Pending certification of the right-to-counsel program's availability, the Pierce County  
19 Superior Court and the local HJP have entered a Memorandum of Understanding  
20 that the local HJP has the capacity and resources to represent all indigent tenants  
21 facing unlawful detainer proceedings in Pierce County.

22 O. This court has determined it appropriate to issue this amended emergency order to  
23 reflect the recent legislation, the end of the Governor's Bridge Proclamation,  
24 establish an ERPP to divert unlawful detainer cases from the docket, and facilitate  
25 both pre-filing and post-filing resolution of cases where the principal issue is non-  
payment of rent. The court designates Commissioner Clint Johnson as the  
procedural point person(s) to work with relevant stakeholders on the implementation  
and ongoing administration of the ERPP and such designation has been provided to  
the Administrative Office of the Courts.

IT IS HEREBY ORDERED as follows:

1. Landlord/Landlord counsel's Obligations regarding Eviction Resolution. Prior to  
serving and/or filing a summons and complaint for nonpayment of rent, the landlord or  
landlord's counsel shall:



- a. **strictly comply** with the notice, service, and certification requirements of Sec. 7(3), (4), and (5) of Chapter 115, Laws of 2021, and the Governor's Bridge Proclamation 21-09 issued on June 29, 2021 as applicable;
- b. as part of the ERPP, meet and confer with the local DRC and the tenant and tenant's attorney to facilitate the resolution of the issue of nonpayment of rent, e.g., accessing rental assistance and establishing reasonable repayment plans; and
- c. file the ERPP DRC Certification Form attached as *Exhibit B* at the time of filing a summons and complaint with the court.

2. **Tenants' Obligations regarding Eviction Resolution.** Tenants must respond to landlords regarding the establishment of reasonable repayment plans and must participate in the ERPP per the timelines established in of Chapter 115, Laws of 2021. (*Governor's Bridge Proclamation – Page 4.*)

3. **DRC Scheduling and Certification of ERPP.** The local DRC has finite resources for ERPP and will schedule conciliation efforts to occur as soon as possible in light of those finite resources. Should a tenant not engage in the 14 days following the DRC's receipt of notice, the DRC may issue the Certification that the landlord has satisfied the requirements of sec. 7 of Chapter 115, Laws of 2021.

- a. The DRC may add relevant language to a certificate of ERPP participation prior to its issuance that details: whether rent assistance was available at the time of the engagement (*for example*, did the tenant qualify for rent assistance and was rent assistance available at this time), the date the DRC received the ERPP notice and the date on the notice, whether the tenant participated in ERPP efforts, whether the tenant had counsel during ERPP, whether the DRC was able to conduct conciliation efforts, and any other relevant information to help the court determine whether the matter is ripe for adjudication.

4. **DRC Reporting Obligations.** On a quarterly basis, the local DRC shall provide to the Court Administrator the ERPP data/information required by Sec. 7 (b)-(f), of Chapter 115, Laws of 2021, in a useable and readable format.

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5. Initial Hearing Procedures for Unlawful Detainer Cases.

a. In non-payment of rent cases in which a DRC Certification was issued after expiration of the Governor's eviction moratorium: At the first hearing, the court shall determine:

- i. whether the landlord has complied with the notice, service, participation, and certification filing requirements of Sec. 7 of Chapter 115, laws of 2021, and the Governor's Bridge Proclamation 21-09 issued on June 29, 2021 as applicable; and
- ii. whether the landlord and tenant met and conferred with the local DRC for purposes of resolving the issue of nonpayment of rent.
- iii. If the tenant fails to appear and the court finds the landlord has demonstrated compliance with applicable law and this Order, the court may grant a default and other relief, including a writ of restitution, as is appropriate.
- iv. Sanctions available for the landlord's noncompliance with notice, service, or certification filing requirements include but are not limited to: awarding attorney's fees and costs, granting a continuance, redirecting the parties back to the DRC for attempted resolution at landlord expense, and any other relief as allowed by law and/or court rule;

b. In non-payment of rent cases where a DRC Certification was issued along with an agreement between the parties: the court reserves its ability to enforce such agreements, including agreements related to the rental agreement beyond nonpayment of rent.

c. Upon implementation of the right to counsel plan for this court by OCLA pursuant to Secs. 8 and 9 of Chapter 115, Laws of 2021, the following provision will take effect: At the first hearing, the court will advise the tenant of their right to appointed counsel if indigent and inquire whether they wish to assert that right. If so, the court shall refer the tenant to HJP, the county-specific entity designated by the Office of Civil Legal Aid (OCLA) for eligibility screening and/or appointment of counsel (e.g. Eviction Defense Hotline or legal aid program), unless counsel has previously been appointed for the tenant prior to filing of the case with the court. If a tenant is referred for appointment of counsel, the Court shall continue the initial hearing as appropriate to allow the litigant to receive

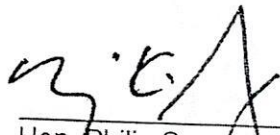


1 assistance from assigned counsel within appropriate timeframes as allowed by  
2 law and/or court rule.

3 d. If a landlord files a nonpayment unlawful detainer case without DRC certification,  
4 the court may consider whether the landlord complied with the ERPP and all  
5 conditions precedent to suit. Should the court find that the landlord was entitled  
6 to DRC certification notwithstanding DRC's failure to certify, the court shall retain  
7 jurisdiction and take all action necessary to afford appropriate relief including,  
8 without limitation, issuing a writ of restitution.

9 6. **Superseding Effect.** This order supersedes all prior emergency orders issued with  
10 respect to the practice and procedure relating to the pilot Eviction Resolution Program.

11 DATED August 16, 2021.

12 

13 Hon. Philip Sorensen,  
14 Presiding Judge  
15 Pierce County Superior Court

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20 IN COUNTY CLERK'S OFFICE

21 AUG 20 2021

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25

## ERPP Notice and Resource Information

Use this form after the eviction moratorium ends.

**Important!** Landlords: Fill out page 1 completely and correctly with all the information that you know. Your information and your attorney's information, if you have one, must be included. You must provide a copy of this notice to the tenant and also send a copy to the local dispute resolution center serving the area where the property is located (see page 2). You should retain proof of service.



### Behind on rent? Here is a chance to resolve the dispute with your landlord

#### Superior Court Eviction Resolution Pilot Program (ERPP)

Tenants: To participate see below and respond by (date): \_\_\_\_\_!  
(14 days after this notice is given to tenant)

**Important!** Tenants: Failure to respond to this notice within 14 days may result in the filing of a summons and complaint for an unlawful detainer action with the court (eviction).

To:	Tenant's Name:	
	Property Address:	
	Tenant's Phone:	Tenant's Email:

From:	Landlord's Name:	
	Landlord's service address:	
	Landlord's Phone:	Landlord's Email:
	Landlord's Lawyer (if any) Name:	
	Lawyer's Address:	
	Lawyer's Phone:	Lawyer's Email:



### Your landlord is asking you to take part in the Eviction Resolution Pilot Program

**! Do not wait! You can get help.**

#### What is the Eviction Resolution Pilot Program (ERPP)?

Your county's Superior Court uses this program. ERPP requires landlords to try to reach agreements with tenants about unpaid rent before they can ask for eviction in court. You may be eligible for **rent assistance and legal help** through the ERPP.

If you participate in the ERPP, your landlord must work with you and a specialist from your local **Dispute Resolution Center (DRC)**. If that solves the problem, great! If not, the DRC will offer free mediation. Mediation is voluntary – it only happens if both sides agree to do it.

You have a right to negotiated **payment plan** that works for you.

#### Why should I participate?





If you get this notice and do **not** respond or try to reach an agreement, your landlord may file for eviction in court. You can get help from a **free lawyer** if you are not sure what to do.



- Rent assistance
- Free mediation
- Free legal help

**What is mediation?** It is when a trained person (a mediator) helps you solve a problem or reach an agreement with someone else. You can ask for mediation at your local **Dispute Resolution Center**. Mediators are impartial and help all participants reach resolution.

**Get help now!** Contact these free resources in your county.

	<b>Rent Assistance</b> <a href="http://Piercecountywa.gov/7142/Rental-Assistance">Piercecountywa.gov/7142/Rental-Assistance</a>
	<b>Dispute Resolution Centers</b> (253) 572-3657, <a href="mailto:solveit@centerforresolution.org">solveit@centerforresolution.org</a>
	<b>Lawyers</b> Statewide Eviction Defense Screening Line 1-855-657-8387 (free) (253) 572-5134, <a href="http://tacomaprobono.org/hjp">tacomaprobono.org/hjp</a>
	<b>Free interpreter services are available at all these programs</b> The Washington State Office of the Attorney General has this notice in multiple languages on its website: <a href="http://www.atg.wa.gov/landlord-tenant">www.atg.wa.gov/landlord-tenant</a> . You will also find information there on how to find a lawyer or advocate at low or no cost and any available resources to help you pay your rent. Alternatively, you may find additional information to help you at <a href="http://www.washingtonlawhelp.org">www.washingtonlawhelp.org</a> and <a href="http://www.courts.wa.gov">www.courts.wa.gov</a> .

**I want to take part in the Eviction Resolution Pilot Program.  
What do I do now?**

You can start the process by doing one of these things:

- Contact the Dispute Resolution Center in your county.
- Fill out and return this form to your landlord at the address on page 1. Keep a copy.

You can also get a lawyer, whether or not you participate in the ERPP.

<input checked="" type="checkbox"/>	<b>Yes, I want help resolving my unpaid rent. Contact me at:</b>	
Tenant's Name:		
Tenant's Address:		
Tenant's Phone:	Tenant's Email:	

## EXHIBIT B

The DRC Certificate is a document completed by Pierce County's Dispute Resolution Center; namely, Pierce County Center for Dialog and Resolution. The DRC issues the document to the parties once the eviction resolution process has concluded.

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